European Master's Degree in Human Rights and Democratization

Awarding of Diplomas

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Director of the OSCE Office for Democratic Institutions and Human Rights

"Human rights in the new Europe: change and challenge"

Carissimi Laureati e Masterini,
Excellencies, Professors,
Ladies and Gentlemen!

It is an honor and a great pleasure to attend the graduation ceremony of the E.MA in Venice again. For me, this is a wonderful experience since I have been accompanying the initiative to establish this program of Human Rights and Democratization from the beginning. With the help of so many, Prof. Papisca, Prof. Fischer, the European Union, my friends Manfred Nowak and George Ulrich, the Program here in Venice has become quite unique. It is well suited for preparing enthusiastic students like you for what I believe to be one of the most challenging, interesting, and difficult career paths available today.

It is a special pleasure to be here with the distinguished new Commissioner, my dear friend Thomas Hammarberg. The last time, I had the honour to join Prof. Meron, then President of the ICTY. This coincidence is a good illustration of the fact that in protecting human rights effectively, tribunals, and especially international ones, are not everything – the examples I will mention later on, I hope, give illustration to the need of institutions such as the Commissioner, or my own Office, to effectively monitor human rights at the international level, and to help remedy shortcomings.

I was asked to speak to you on human rights challenges in the new Europe as they may affect you.

Indeed, Europe is enjoying an unprecedented period of peace and prosperity – at least, in many regards. We have witnessed a burst of democratic change that swept Europe in the 1990s. Authoritarian regimes collapsed, sometimes under their own weight, sometimes amid outside pressure or by force. In places where the fabric of society was strong, nations maintained their equilibrium, and democratic hopes were realized. But in nations where totalitarianism had been taking firm roots, and civil society was most brutally pulverized, liberation begat conservative restoration at best, and instability, or war, at worst.

So: challenges remain, old and new. Even following the expansion of the European Union and that of the Council of Europe across almost the entire continent and beyond, after the end of the Balkan wars, there is much to be done, within Europe and beyond.

Your program reflects both the change and the challenge: It does not only supply you with excellent training. You also have the opportunity to get out of the libraries and lecture rooms, into the field, and learn about human rights and democratization iwork n practice, and apply it. In so doing, you mirror the evolution of the international human rights system as a whole that followed the trajectory “from the conference rooms to the field”. And the help of the strong academic network across the continent and beyond, and the EIUC, are an important contribution.

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I want to sketch a few illustrative examples for change, and challenge, alike. Let me start with a particular part of Europe where change was violent, and challenge remains huge, an area in which institution-building and democratization practice, powered by the machinery of liberal Western values, will yet have to incorporate fully all approaches to human rights protection. This case is Kosovo, in its eighth year under international rule. As many of you Masteroni have been on the study trip to Prishtina in January, and Masterini will do so at the end of this year, I am certain that you are familiar with the situation there. I just want to highlight the alleged 'human rights vacuum' that opened up as the United Nations and NATO deployed their civil and military presence in June 1999.

This constitutes a key area in which your generation of human rights lawyers and practitioners will be challenged to come up with new ways to approach problems arising in the aftermath of humanitarian catastrophe, massive displacement of people and societal collapse. More specifically, this includes the issues of monitoring and accountability. This concerns the extra-territorial applicability of international human rights instruments and the extent to which ECHR signatories are 'projecting' their *espace juridique* beyond their territorial boundaries when they employ executive powers under an international mandate.

In fact, the extent to which Kosovars can rely on the ECHR to bring claims in front of the Strasbourg Court is less than clear. Of course, the issue gravitates around the interpretation of the term 'jurisdiction' in Article 1 of the ECHR and the following question: whether anyone adversely affected by an act imputable to a Contracting State – or, as the Court once termed it: "*wherever in the world that act may have been committed or its consequences felt*" – whether this person is brought within the jurisdiction of that State and therefore its human rights obligations. In Kosovo, this key issue has been left unresolved for the past seven years. In effect, by placing a people under its control, the UN has, ironically, removed them from the protection of an international human rights regime that formed the justification for UN engagement in Kosovo in the first place.

The problem may also be re-stated along more political lines: the community of EU- (and hence OSCE-) member states - to whom some executive powers in Kosovo will be transferred – cannot afford to exclude a people under their 'tutelage' from the protection of supranational human rights institutions, in all its aspects. You, both as field workers and future employees of human rights institutions, will contribute to a different understanding of how the rule of law can credibly and sustainably be 'exported' to areas affected by the aftermath of conflict.

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This challenge holds equally true for human rights engagement and advocacy within older and established democracies. The more people know about human rights and democracy, both in theory and in practice, the better the chances that these two fundamental foundations of the new Europe will prevail as the defining features of the 21st century. But now, sixty years after WW II, thirty years after the Helsinki Final Act, and fifteen years after the OSCE has adopted its most far-reaching political commitments on human rights and democracy in the Copenhagen Document on the Human Dimension, a new challenge seems to appear - the challenge of a possible rift between two competing visions of how to move on, in particular with regard to the fight against international terrorism and the careful balance states should strike in order to meet their obligations under international human rights law, and equally important, the political commitments undertaken in the framework of the OSCE.

While for most of the past century, the United States had been one of the driving forces in the promotion of human rights, rule of law and democracy, recent developments have cast doubts over the sustainability of this role. Also, new actors are asserting themselves more strongly. The European Union, first of all, has given human rights an ever higher importance in both its internal as well as external policies. This is mirrored in its Charter of Fundamental Rights, but also through its implication of human rights standards in its enlargement process and in its relations with countries around the world. But those who have been leading the international human rights movement have lost credibility on the road to Guantanamo,

and Abu Ghraib, to secret places of detention and secret rendition flights, in their search for 'black holes' rather than for effective human rights guarantees and accountability.

Credibility is a crucial factor for human rights policies; it begins with honoring governments' commitments to protect human rights effectively and to respect the rule of law. If the locomotive of liberal change in the world – pulled by America and Europe – were to get out of sync, the global human rights movement could lose momentum to carry on in a credible and effective manner.

Just over thirty years ago in Helsinki, the transatlantic consensus established the protection of human rights as a fundamental principle for relations between states. The consensus found in Helsinki must be preserved if we are to jointly address the challenges, internal as well as external, of the 21st century. And the OSCE is a unique framework for realizing this fundamental objective.

Transition, transformation, reform – the challenges to move from the legacies of a totalitarian past to a pluralistic future not only remain, but have become stronger in certain areas, both geographically and substantially. This is where institutions such as the CoE Commissioner or my Office are confronted with the need to muster enough *political* will for moving forward, for resisting temptation to fall into bad old habits, for ensuring not only the individual, but also the collective responsibility for the effective implementation of international standards.

To the general public, the ODIHR is most known, I think, for election observation. Elections are a defining moment for democracies, but also only the tip of the iceberg of building strong democratic institutions, and strong democratic governance, i.e., substance and process. In considerable parts of the new Europe, this remains unfinished business indeed.

Following the revolutionary events and the turmoil of the 1990s, autocrats also within the wider OSCE hemisphere created nations that were neither totalitarian nor free. They sought to stifle liberty in order to secure their grip on power. Democracy activists and human rights defenders have been, and continue to be arrested; independent newspapers are being shut down, along with NGOs that advocate pluralism. It will be your job, as future professionals in human rights and democratization work, to see to that democratic forces do not go away. I believe that it is precisely the combination of work conducted both in conference rooms and in the field which is so crucial for effectively responding to the challenges we face, to have words followed by concrete action, to ensure that legal and political commitments undertaken by States are being implemented. To achieve this, partnerships are necessary, encompassing governments, the academic world, business and media, NGOs, and international organizations.

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I am sure these days many of your thoughts and discussions focus on what you can expect from your future careers, and of international organizations in general. I am sure you have heard before that human rights theory may contrast quite a bit with human rights work applied to practice. You study the case law, but what can you expect in practice?

I can not predict any of the paths each of you will be going, but I know that they will be exciting, facing change and challenge as defining characteristics. As for the short run, I can say that a number of your predecessors have fared well at the ODIHR as interns. They have quickly integrated into the work of my Office, and had the opportunity to experience the world of human rights diplomacy as well as human rights field work. They have been a good source of knowledge, ideas and fresh energy for my team in Warsaw, as well as to other OSCE colleagues in the field.

Let me give you just a few examples of what some of them have been involved in over the past years: They have helped organize roundtables on extremism in Central Asia, as well as major conferences on anti-Semitism, racism and xenophobia throughout Europe; they have set up a trial monitoring system in Azerbaijan with local NGOs, and have done a lot of work with national authorities to promote penitentiary reform in countries like Kazakhstan and Belarus. Other *masteroni* assisted in setting up a monitoring strategy for hate crime monitoring, and did valuable research for our projects on human rights in armed forces and on issues pertaining to freedom

of religion and belief. They tell me that they benefited a lot from the education and training they have received here, and they certainly have been, and are, a valuable asset to my Office.

Ladies and Gentlemen,

In conclusion, I congratulate all the graduates of this course – *c'e l'avvete fatta!* I want to welcome you to a challenging world of human rights and democracy promotion in practice. All those of you who are just beginning their studies here I wish success and endurance. To all of you, students and masters, I wish patience and an ability to listen and learn, especially from the people out there, who will never come to the *Scuola Grande* or sit in one of your libraries, but whose human rights you have committed yourself to honor.

Thank you, and good luck to you all.